

Merit Systems Protection Board

§ 1201.14

to appellate proceedings and stay requests covered by part 1209 unless other specific provisions are made in that part. These regulations also apply to original jurisdiction proceedings of the Board except as otherwise provided in subpart D. It is the Board's policy that these rules will be applied in a manner that expedites the processing of each case. It is the Board's policy that these rules will be applied in a manner that ensures the fair and efficient processing of each case.

[74 FR 9343, Mar. 4, 2009]

§ 1201.12 Revocation, amendment, or waiver of rules.

The Board may revoke, amend, or waive any of these regulations. A judge may, for good cause shown, waive a Board regulation unless a statute requires application of the regulation. The judge must give notice of the waiver to all parties, but is not required to give the parties an opportunity to respond.

§ 1201.13 Appeals by Board employees.

Appeals by Board employees will be filed with the Clerk of the Board and will be assigned to an administrative law judge for adjudication under this subchapter. The Board's policy is to insulate the adjudication of its own employees' appeals from agency involvement as much as possible. Accordingly, the Board will not disturb initial decisions in those cases unless the party shows that there has been harmful procedural irregularity in the proceedings before the administrative law judge or a clear error of law. In addition, the Board, as a matter of policy, will not rule on any interlocutory appeals or motions to disqualify the administrative law judge assigned to those cases until the initial decision has been issued.

§ 1201.14 Electronic filing procedures.

(a) *General.* This section prescribes the rules and procedures by which parties and representatives to proceedings within the MSPB's appellate and original jurisdiction may file and receive documents in electronic form.

(b) *Matters subject to electronic filing.* Subject to the registration requirement of paragraph (e) of this section,

parties and representatives may use electronic filing (e-filing) to do any of the following:

(1) File any pleading, including a new appeal, in any matter within the MSPB's appellate jurisdiction (§ 1201.3);

(2) File any pleading in any matter within the MSPB's original jurisdiction (§ 1201.2);

(3) File a petition for enforcement of a final MSPB decision (§ 1201.182);

(4) File a motion for an attorney fee award as a prevailing party (§ 1201.203);

(5) File a motion for compensatory or consequential damages (§ 1201.204);

(6) Designate a representative, revoke such a designation, or change such a designation (§ 1201.31); or

(7) Notify the MSPB of a change in contact information such as address (geographic or electronic mail) or telephone number.

(c) *Matters excluded from electronic filing.* Electronic filing may not be used to:

(1) File a request to hear a case as a class appeal or any opposition thereto (§ 1201.27);

(2) Serve a subpoena (§ 1201.83);

(3) File a pleading with the Special Panel (§ 1201.137);

(4) File a pleading that contains Sensitive Security Information (SSI) (49 CFR parts 15 and 1520);

(5) File a pleading that contains classified information (32 CFR part 2001); or

(6) File a request to participate as an amicus curiae or file a brief as amicus curiae pursuant to § 1201.34 of this part.

(d) *Internet is sole venue for electronic filing.* Following the instructions at e-Appeal Online, the MSPB's e-Appeal site (<https://e-appeal.mspb.gov>), is the only method allowed for filing electronic pleadings with the MSPB. The MSPB will not accept pleadings filed by electronic mail (e-mail).

(e) *Registration as an e-filer.* (1) Registration as an e-filer constitutes consent to accept electronic service of pleadings filed by other registered e-filers and documents issued by the MSPB. Except when filing a new appeal within the MSPB's appellate jurisdiction (§ 1201.3), no party or representative may file an electronic pleading with the MSPB unless he or she has registered with the MSPB as an e-filer.